



FAIRFAX
COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Modification of Certain Minimum Required Yards; Waiver of Residential Minimum Lot Width Requirement and Increase in Fence and/or Wall Height

PUBLIC HEARING DATES

Planning Commission

January 12, 2005 at 8:15 p.m.

Board of Supervisors

January 24, 2005 at 4:00 p.m.

**PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
(703) 324-1314**

December 6, 2004

DP



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information call (703) 324-1334.

STAFF COMMENT

INTRODUCTION

The proposed amendment is prompted by a request from the Board of Supervisors to accommodate certain modifications to yard requirements, increases in fence and wall height and waiver of minimum lot width requirements as either a special exception or special permit. In the past, when a property owner desired modification of the specified yard requirements, an increase in fence or wall height, or a waiver of the minimum lot width requirement, a variance application was submitted for review and action by the Board of Zoning Appeals (BZA). However, the Supreme Court of Virginia recently reaffirmed that current law permits a variance to be issued only in the event that strict adherence to the Zoning Ordinance regulations would otherwise restrict all reasonable use of the property. As such, the granting of a variance absent such hardship is precluded.

In light of this fact, the Board of Supervisors determined that it was in the County's best interest to allow some limited flexibility with regard to certain Zoning Ordinance provisions, such as yard requirements, fence/wall height and lot width requirements, and that these requests can be appropriately accommodated through the special permit or special exception review process. This proposed amendment addresses these issues.

The Board has further requested staff to consider whether there are other areas where flexibility is desired with regard to the limits established by the Zoning Ordinance. Staff is currently considering a number of additional changes that may be beneficial; however, further research is warranted prior to developing a staff position on these issues. In recognition of the Board's desire to expeditiously develop special permit and/or special exception provisions to address some of the issues previously considered as variance applications, staff has divided the task such that the modification of certain yard requirements, the increase in front yard fence/wall height and the waiver of minimum lot width requirements will be incorporated as part of this amendment. These categories comprise the vast majority of the types of variances heard by the BZA in the past. Other issues will be the subject of subsequent amendments and it is expected that the next amendment will be advertised in the spring of 2005. Some of the issues under review for later phases are listed below with a more detailed discussion of the proposed later phases contained in Attachment A.

- Allow an increase in building height in residential districts with special exception approval.
- Allow the Zoning Administrator to administratively approve increases in fence or wall height by up to 10% in limited situations.
- Allow an increase of fence/wall height in the side and rear yards and on lots that are contiguous to uses with unique impacts such as golf driving ranges and ball fields.
- Allow certain lattice screening walls and/or limited trellis-like structures on decks for single family dwellings to encroach into minimum required yards.
- Consider the deletion of at-grade patios from the deck definition.

PROPOSED AMENDMENT

As was previously noted, the proposed amendment consists of three main parts including modification of certain yard requirements, increases in fence and/or wall height and the waiver of certain minimum lot width requirements. Each of these topics will be discussed in turn.

Yard Modifications

Under the current provisions of the Zoning Ordinance, minimum yard requirements are established by a variety of provisions. Each individual zoning district, excluding planned development districts, sets forth the minimum required front, side and rear yards. In addition to these minimum yard requirements, there are many other Zoning Ordinance provisions that either offer additional flexibility or further restrict the location of structures or uses on a property. Some of these provisions allow for by right modification of yards, some require administrative approval by the Zoning Administrator or the Director of the Department of Public Works and Environmental Services (DPWES), and still others require the approval of the Board of Supervisors or Board of Zoning Appeals. Attachment B contains a summary of the various existing Zoning Ordinance provisions that establish minimum yard requirements and the current provisions that allow a modification of yard requirements.

As noted in Attachment B, the Zoning Ordinance currently addresses yard requirements in a number of different provisions and offers some relief in specified circumstances. However, it is appropriate to allow even more flexibility to modify certain yard requirements. As such, the amendment proposes to add additional areas of flexibility including (1) a new special permit use allowing the BZA to approve a modification of certain minimum required yards, (2) a new special permit and special exception use that allow the BZA and Board to approve a modification of the minimum yard requirements for certain existing structures and uses, and (3) a modification of the 10 foot minimum distance between off-street parking spaces and the front lot line. Each of these proposals is discussed below.

- **New Special Permit Use Allowing the BZA to Approve a Modification of Certain Minimum Required Yards**

A new Sect. 8-920 is proposed to be added to the Zoning Ordinance that allows the BZA to approve a special permit for the modification of certain yard requirements by up to 50% including:

- Minimum required yards of the applicable zoning district;
- Front yard requirement of 25 feet for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416 of the Zoning Ordinance; and
- Accessory structure minimum location requirements set forth in Sect. 10-104 of the Zoning Ordinance.

The 50% maximum modification is recommended to allow some flexibility in locating a structure on the property, while maintaining an adequate and appropriate distance between a structure and property line. For any applicant who seeks a modification of more than 50% and/or results

in a setback of less than 5 feet, approval of a variance application would still be required.

Sect. 2-412 of the Zoning Ordinance currently allows certain attached accessory structures to extend into minimum required yards specified for the applicable district, including carports, decks, stoops, bay windows, eaves and other similar features. In cases where compliance cannot be achieved, Sect. 8-916 of the Zoning Ordinance allows a property owner to seek special permit approval to allow a modification of the permitted extensions into the minimum required yards allowed under Sect. 2-412. Under Sect. 8-916, the BZA cannot approve a special permit for a modification that results in an extension that exceeds the applicable distance specified in Sect. 2-412 by more than 50%. In addition, where no extension is permitted by the provisions of Sect. 2-412, existing Sect. 8-916 does not allow the BZA to approve a special permit that results in a structure that extends into a minimum required yard by more than 50% of that required yard. As part of this amendment, it is proposed to delete Sect. 8-916 and incorporate the provisions of Sect. 8-916 into Par. 3 of new Sect. 8-920.

To gain a better understanding of the impact of the proposed 50% maximum modification, staff has reviewed the 276 separate requests for residential yard variances that were acted upon by the BZA in 2003. This analysis is summarized in a table contained in Attachment C. The table shows that 25% of the variance requests that were for a modification of greater than 50% were denied by the BZA. An additional 11% were partially approved. Finally, the table shows that the BZA approved approximately 90% of the variance applications that requested a modification of 50% or less of the yard requirements. This data shows that the proposed 50% limitation is generally consistent with the actions of the BZA in 2003.

This amendment includes a standard that the 50% maximum modification can not result in the placement of a detached accessory structure in a yard where the placement of such accessory structure is not permitted anywhere in that yard. For example, a shed is not permitted in any minimum required front yard. Given this proposed standard, the BZA could not grant a special permit to allow a shed to locate in a minimum required front yard. Staff believes it inappropriate for this new special permit to allow a structure to be constructed in an area of the lot where the structure is not otherwise permitted.

In addition, this new special permit use includes a requirement that any such modification may be approved only if the BZA determines that the resultant development is in character with the existing development on the site, is harmonious with the surrounding development, and does not adversely impact the use and/or enjoyment of any adjacent property. Further, the BZA must make the determination that such modification represents the minimum amount necessary to accommodate the structure given the existing environmental features and development on the lot, the existing development on adjacent properties and/or to further the preservation of historic resources. The BZA may also impose any conditions that it deems necessary to satisfy these standards.

- **Modification of Minimum Yard Requirements for Certain Existing Structures and**

Uses

Staff is also proposing a new Sect. 8-921 of the Zoning Ordinance that would allow the BZA to approve, in conjunction with the approval of a special permit, a modification of any yard requirement for certain existing structures and uses, including but not limited to principal and accessory structures and off-street parking spaces. Under proposed Sect. 8-921, it must be demonstrated that the existing structure or use complied with the minimum required yards in effect when the use was established and that the yards have not been reduced to less than the yards required by the Zoning Ordinance since its effective date, except by condemnation or by acquisition for public purposes by any governmental agency. The proposal is in recognition of circumstances that have been identified on some applications where new uses are being proposed on sites with existing structures that met the requirements in effect when the structures were constructed but do not meet the current minimum required yards. For example, a place of worship constructed at a time when places of worship were permitted by right, but which does not meet the current minimum yard requirements, could use this special permit to expand or further develop. Under the current requirements, both a special permit and a variance application are required in this situation. This amendment resolves this difficulty.

The proposed amendment also would add a new Sect. 9-624 to the Zoning Ordinance which is similar to proposed Sect. 8-921. New Sect. 9-624 would allow the Board of Supervisors to approve a modification of any minimum yard requirements for certain existing structures and uses when such request is made as part of a rezoning or special exception. The limitations described above for the similar special permit use are also proposed with this new special exception. This proposal eliminates the need for a separate variance application and public hearing process through the BZA, thereby reducing the processing time and costs for both applicants and staff.

- **Modification of 10 Foot Minimum Distance Between Off-Street Parking Spaces and Front Lot Line**

Pursuant to Par. 8 of Sect. 11-102 of the Zoning Ordinance, off-street parking spaces in non-single family developments that are located on the ground and open to the sky may be located in any required yard but not closer than 10 feet to any front line. In addition, Par. 3 of Sect. 13-302 of the Zoning Ordinance requires that a 10 foot wide peripheral parking lot landscaped area be provided between off-street parking spaces and the front lot line for any parking lot containing 20 or more spaces and where transitional screening is not required. As a result of a Zoning Ordinance amendment that was adopted last summer, the Board has the ability to modify the 10 foot setback and/or peripheral parking lot landscaping requirements in conjunction with the approval of a rezoning or a special exception. At that time, it was requested by both the Planning Commission and the Board that consideration be given to granting the BZA the same authority in conjunction with their approval of special permits. As such, the proposed amendment revises Par. 8 of Sect. 11-102 and Par. 3 of Sect. 13-302 to also allow the BZA to modify the 10 foot setback and/or peripheral parking lot landscaping

requirements in conjunction with the approval of a special permit.

Increase in Fence and/or Wall Height in Any Front Yard

Under the current Zoning Ordinance provisions, a fence or wall is permitted in any district as an accessory use to a principal use. Under Par. 3 of Sect. 10-104 of the Zoning Ordinance, the maximum allowable height for a fence or wall located in a front yard is 4 feet. However, there are several exceptions to this limitation where fences or walls taller than 4 feet are permitted in a front yard, including lots containing industrial uses, lots containing two or more acres in the R-A, R-P, R-C, R-E or R-1 Districts and certain front yards on lots abutting major thoroughfares. Furthermore, Sect. 2-505 of the Zoning Ordinance limits the height of fences in the front yards of corner lots that are located within the restricted sight distance triangle to a maximum height of 3½ feet.

At the request of the Board, staff has considered whether there should be some additional opportunity for flexibility with regard to fences and/or walls located in the front yard of an individual residential lot. This has been particularly relevant to corner lots and through lots that are not reverse frontage lots, which have two front yards under the Zoning Ordinance. There have been many instances of variance applications that were requests to allow the construction of fences or walls greater than 4 feet in height in the front yard on a corner or through lot, particularly in front yards that function as side yards. Staff believes that in some instances it may be appropriate to allow a fence or wall greater than 4 feet in height in the front yard of a corner or through lot.

In response, this amendment proposes to add a new Sect. 8-922 to the Zoning Ordinance that would allow the BZA to approve a special permit for an increase in height of fences and/or walls in any front yard to a maximum of 6 feet. Under proposed Sect. 8-922, an increase in height may only be approved if the BZA determines that the resultant fence and/or wall is in character with the existing development on the site, is harmonious with the surrounding development, and does not adversely impact the use and/or enjoyment of any adjacent property. The BZA may also impose any conditions it deems necessary to satisfy this criteria.

Waiver of Minimum Lot Width Requirements in Residential Districts

The proposed amendment also considers changes to allow some flexibility for waiving the minimum lot width requirements in residential districts. Under the current provisions, the minimum lot width requirements are specified by individual zoning district regulations. Sect. 9-610 of the Zoning Ordinance currently allows the Board of Supervisors, in conjunction with the approval of a rezoning or special exception, to waive the minimum lot width requirements in commercial and industrial districts. However, Sect. 9-610 does not allow a waiver of the minimum lot width requirements in residential districts. Additionally, Sect. 9-613 of the Zoning Ordinance allows the Board, in conjunction with the approval of a rezoning or special exception to waive lot width, yard, and privacy yard requirements for single family attached dwelling units. In conjunction with special exception approval for cluster subdivisions, the Board can modify the minimum lot width requirements pursuant to Sect. 9-615 of the Zoning Ordinance. Lastly, Sect. 9-622 of the Zoning Ordinance allows the Board to grant special

exception approval for the waiver of the minimum lot width requirements in Commercial Revitalization Districts.

Given that the Board can currently waive the minimum lot width requirements in commercial and industrial districts and in cluster subdivisions subject to special exception approval, staff believes it appropriate to also allow the Board to waive the minimum lot width requirements in residential districts subject to special exception approval. Since waivers of the minimum lot width requirements impact the number of lots that can be developed on a property and are land use decisions impacting density, it is staff's opinion that such requests should be determined by the Board of Supervisors. As such, it is staff's recommendation that Sect. 9-610 be revised to permit the Board to approve, either in conjunction with the approval of a rezoning or as a special exception, the waiver of minimum lot width requirements in residential districts, except for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of 3.5 acres or greater. The staff recommendation is contained as Option 1.

Staff also proposes to include a new standard to Sect. 9-610 in Option 1 that requires that such waiver must result in a development that preserves existing vegetation, topography, historic resources and/or other environmental features to the greatest extent practical. This standard was added in recognition that there may be some circumstances in which it is more appropriate to allow pipestem driveways rather than require the construction of a public road in order to preserve trees and other environmental features on the property.

Given that Option 1 allows the Board to waive the minimum lot width requirements in most residential districts, including districts that allow single family attached dwellings, it is no longer necessary to keep the lot width waiver provisions for single family attached dwellings in Sect. 9-613 in this option. As such, it is proposed to delete the lot width waiver provision for single family attached dwellings in Sect. 9-613 as part of Option 1.

For all of the reasons previously discussed, it is staff's opinion that Option 1 should be adopted. However, at the time of the authorization of this amendment, the Board of Supervisors requested staff to prepare language that would allow the advertisement and discussion of an option for the BZA to approve a special permit for the waiver of the minimum lot width requirements in residential districts instead of special exception approval by the Board. In response to the Board's request and in order to provide the Board and Planning Commission with the flexibility to consider an alternative to the staff recommendation that is within the scope of the advertisement of this amendment, Option 2 has been developed. Under Option 2, a new Sect. 8-923 is proposed to be added that would allow the BZA to approve a special permit for the waiver of the minimum lot width requirements in residential districts, generally subject to the same standards contained in Sect. 9-610 as described above. This option would replace the authority of the Board to grant minimum lot width waivers by special exception as provided for in Option 1.

It has been contended that most lot width waiver requests are made by individual land owners and that the special permit process is shorter, less cumbersome and less expensive than the special exception

process, thereby making such requests more appropriately handled by the BZA. A waiver of the minimum lot width requirement is nearly always requested in order to allow the subdivision of property into two or more lots without the construction of a public street. Such landowner is acting in the capacity of a developer and the approval of a minimum lot width waiver could enable such landowner to achieve additional lots on the property at significant financial benefit by eliminating the requirement for construction of a public road. Staff does not view this situation in the same light as, for example, an application for an increase in fence height or a yard modification request, or other such typical requests made by individual homeowners. Because the overall impacts of minimum lot width waivers can be significant, staff believes that such applications are more appropriately considered by the Board. While staff acknowledges that the special exception process requires one more public hearing than the special permit process, the processing fees for such applications are similar. Staff supports a process that provides for Planning Commission and Board review of minimum lot width waiver requests in order to address environmental and transportation impacts and other development concerns. For these reasons, staff does not support Option 2, which provides for a special permit process for waiver of the minimum lot width requirements in residential districts.

Submission Requirements

The current special permit plat submission requirements for most special permit applications are contained in Par. 2 of Sect. 8-011 of the Zoning Ordinance. With regard to submission requirements for the new modification of certain yard requirements and increase of fence and/or wall height special permit uses, staff is recommending special permit plat submission requirements that are similar to the plat detail currently required for a special permit for an error in building location. Staff believes that an appropriate amount of information must be provided in order to evaluate these new special permit uses. However, all of the information required by Sect. 8-011 is not required to adequately review these new special permit uses and could be financially prohibitive for individual property owners. Some of the special permit plat submission requirements in Sect. 8-011 that are proposed to be excluded with these new special permit uses include: detailed right-of-way delineations, stormwater management information, topographic information, limits of clearing and grading and existing vegetation maps. Staff believes the proposed submission standards to be appropriate from a reviewer's perspective and give due consideration to the expense of preparation of a certified plat.

Staff's original proposal for the special permit plat submission requirements for certain yard modifications or increases in fence or wall height special permits did not include floodplain, Resource Protection Area (RPA), Resource Management Area (RMA) or environmental quality corridor (EQC) delineations. At the time of authorization of this amendment by the Board, however, it was suggested that it may be appropriate to include floodplain, RPA, RMA and EQC delineations as a submission requirement, given that new construction would likely occur in conjunction with these new special permit uses. Under the submission requirements for most special permits contained in Sect. 8-011, the special permit plat must show the approximate location of any floodplain designated by the Federal Insurance Administration, United States Geological Survey or Fairfax County. Additionally, the delineation of any RPA, RMA and EQC, as defined in the adopted comprehensive plan, must also be depicted on a special permit plat. At the time of authorization of this amendment, the Board requested that the

floodplain, RPA, RMA and EQC delineations be included as a submission requirement for the new increase in fence or wall height and certain yard modification special permit uses. This additional submission requirement has been incorporated into new Sections 8-920 and 8-922 in Options 1 and 2.

Staff, however, does not support the inclusion of floodplain, RPA, RMA and EQC information on the special permit plats for certain yard modifications or increases in height of fences or walls for several reasons. First, staff believes that the cost of obtaining an engineer's certification of floodplain, RPA, RMA and EQC delineations may be prohibitive for such relatively inexpensive homeowner improvements as fences or sheds. Staff cannot fully predict the cost impacts, however, it is estimated that they could range from about \$100 for a simple certification that no floodplain exists on a small lot based upon an engineer's review of existing floodplain data to several thousand dollars in cases where no approved floodplain information is available on a large lot, thus requiring a detailed floodplain study. Staff finds that this financial burden is not in keeping with the intent of developing a reasonable process by which a typical homeowner can obtain some limited relief from certain zoning regulations. Additionally, these types of applications were previously handled as variances and such information is not required for variance applications. Lastly, the existing error in building location special permit provisions do not require floodplain, RPA, RMA or EQC delineations on the associated plats and this type of application inherently includes building construction. Staff has reviewed the staff report prepared for the Zoning Ordinance amendment adopted on June 8, 1998 that revised the plat submission requirements for error in building location special permits. As indicated in the 1998 staff report, it was believed that these environmental delineations were not warranted for the more non-controversial, homeowner-related applications.

Par. 4 of Sect. 8-011 of the Zoning Ordinance currently requires that photographs of the property showing existing structures, terrain and vegetation be submitted with a special permit application. It is believed that additional photographic information would facilitate the review of the proposed new special permit uses by both the BZA and staff. As such, the proposed amendment enhances the current photographic submission requirement for the new modification of certain yard and increase in fence and/or wall special permit uses to require that photographs of the property be provided as seen from the front street line and all other property boundaries. Given the current wide-spread use of digital cameras, it is also proposed to allow the photographs be submitted in either print or digital format.

Application Fees

Given that the proposed amendment adds new special permit and special exception uses, adjustments to the application fee schedule in Paragraphs 1 and 2 of Sect. 18-106 of the Zoning Ordinance are required. The following new fees are proposed:

- Special permit for modification of certain yard requirements and increase in height of fence and/or wall - \$190.
- Special exception for waiver of minimum lot width requirements in residential districts as contained in Option 1 - \$1708.

- Special permit for waiver of minimum lot width requirements in residential districts as contained in Option 2 - \$1708.
- Final development plan or development plan amendment for the increase of fence heights or the modification of minimum required yards on individual single family lots - \$190.

The current variance application fee for residential minimum yard and maximum fence height variances is \$190 and for residential minimum lot width variances is \$1708. Therefore, the proposed application fees are consistent with the current variance application fees. Since all development in a P district must be in substantial conformance with a previously approved development plan, it follows that modifications to yards or fences in P districts may require amendments to those previously approved development plans. The proposed fee for amendments to previously approved development plans is also consistent with the current variance application fees. It should be noted that all of the proposed new fees are subject to increase if the proposed fee amendment is adopted by the Board in conjunction with their consideration of next year's budget.

PROCESS

There are 60 pending variance applications awaiting resolution at the time of preparation of this staff report. It is noted that one application may include more than one variance request such as a modification to both a front and side yard requirement, or a modification to a minimum required yard and an increase in fence height. Of these pending applications, 5 applications include requests for increases in fence or wall height and 3 applications include requests for waiver of the minimum lot width requirements. In addition, there are 96 requests for yard variances. A summary of the pending conventional residential district variance requests is contained as Attachment D. Based upon the changes proposed with this amendment, staff believes that approximately 63% of the requests for yard modifications would be eligible to seek relief under the new special permit for a modification of certain yards assuming that no amendment of the request is made. However, it is anticipated that a number of the applicants may modify their request in order to become eligible for one of the new special permit applications. Therefore, it is approximated that there could be as many as 80% of the applicants requesting a yard variance may be able to benefit from this proposed amendment.

In order to assist applicants with pending variance applications, the applications that are impacted by this proposal will be administratively converted to the appropriate new special permit or special exception application with no additional application fee. The new applications will be scheduled and advertised for public hearings as expeditiously as possible. It should be noted that if the floodplain, RPA, RMA and EQC delineation submission requirement for increases in fence or wall height or certain yard modification special permits is approved by the Board, amended plats will be required in order to process the applications as special permits.

The proposed staff analysis for the new special permit and special exception uses proposed with this amendment will consist of internal review of the application through the staffing process, site visits, more detailed analysis in the staff report than is currently provided in variance staff reports, and the development of specific development conditions. However, it is proposed that staff recommendations

on these applications will not be provided, which is consistent with how variance applications are handled.

Given that variance applications are not staffed, site visits are not conducted and there is minimal staff analysis in the staff report, it is anticipated that the proposed new process will require more staff time and effort than is currently required for similar variance requests. It should also be noted that there are approximately 200 variance applications filed each year. With the less restrictive standards for the proposed special permit, it is expected that there will be an increase in the number of applications filed. The procedural changes and corresponding increased work load will require the need for one additional planner in the Zoning Evaluation Division.

CONCLUSION

Staff believes that the recommended changes will accomplish the Board's desire to accommodate some of the typical variance requests as special permit or special exception applications. Staff believes the proposed amendment provides the flexibility to address site-specific circumstances that may warrant relief from the specified minimum yard requirements, maximum fence and/or wall height in a front yard, and the minimum lot width requirement. Since waivers of the minimum lot width requirements impact the number of lots that can be developed on a property and are land use decisions impacting density, it is staff's opinion that such requests should be determined by the Board of Supervisors. It is further staff's opinion that the floodplain, RPA, RMA and EQC delineations should not be a submission requirement for a special permit for modification of certain yard requirements or an increase in fence or wall height because the inclusion of such a requirement is likely to make the process cost-prohibitive for many applicants, thus defeating the original purpose and intent of these amendments. Therefore, staff recommends approval of Option 1 without a floodplain, RPA, RMA and EQC delineation submission requirement with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

OPTION 1

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of December 6, 2004 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 3, Residential District Regulations, as follows:

- **Amend the R-A and R-P Districts, Sections 3-A06 and 3-P06, Lot Size Requirements, by adding a new Par. 4 to read as follows:**
 - 4. The minimum lot width requirement presented in Par. 2 above may be waived by the Board in accordance with the provisions of Sect. 9-610.
- **Amend the R-C District, Section 3-C06, Lot Size Requirements, by adding new Paragraphs 4 and 5 to read as follows:**
 - 4. The minimum district size requirement presented in Par. 1 above may be waived by the Board in accordance with Sect. 9-610.
 - 5. The minimum lot width requirements presented in Par. 3 above may be waived by the Board in accordance with the provisions of Sect. 9-610.
- **Amend the R-E and R-1 Districts, Sections 3-E06 and 3-106, Lot Size Requirements, by adding a new Par. 6 to read as follows:**
 - 6. The minimum lot width requirements presented in Par. 4 above may be waived by the Board in accordance with the provisions of Sect. 9-610.
- **Amend the R-2 District as follows:**
 - **Amend Sect. 3-206, Lot Size Requirements, by adding a new Par. 5 to read as follows:**

OPTION 1

5. The minimum lot width requirements presented in Par. 4A above may be waived by the Board in accordance with the provisions of Sect. 9-610.

- **Amend Sect. 3-210, Affordable Dwelling Unit Developments, by revising Par. 2C and adding a new Par. 2D to read as follows:**

2. Minimum lot width

C. Single family attached dwellings: 14 feet, ~~which may be waived by the Board in accordance with the provisions of Sect. 9-613.~~

D. The minimum lot width requirements presented in Paragraphs 2A and 2C above may be waived by the Board in accordance with the provisions of Sect. 9-610.

- **Amend the R-3 and R-4 Districts as follows:**

- **Amend Sections 3-306 and 3-406, Lot Size Requirements, by adding a new Par. 5 to read as follows:**

5. The minimum lot width requirements presented in Par. 4A above and the minimum lot width requirements presented in Par. 4B above, when such cluster subdivision contains a minimum of two (2) acres but less than three and one-half (3.5) acres, may be waived by the Board in accordance with the provisions of Sect. 9-610.

- **Amend Sections 3-310 and 3-410, Affordable Dwelling Unit Developments, by revising Par. 2C and adding a new Par. 2D to read as follows:**

2. Minimum lot width

C. Single family attached dwellings: 14 feet, ~~which may be waived by the Board for conventional subdivisions in accordance with the provisions of Sect. 9-613.~~

D. The minimum lot width requirements presented in Paragraphs 2A and 2C above may be waived by the Board in accordance with the provisions of Sect. 9-610.

- **Amend the R-5 and R-8 Districts as follows:**

- **Amend Sections 3-506 and 3-806, Lot Size Requirements, by revising Par. 5 to read as follows:**

5. The minimum lot width requirements presented in Par. 3B above may be waived by the Board in accordance with the provisions of Sect. ~~9-613~~ 9-610.

- 1
2 - **Amend Sections 3-510 and 3-810, Affordable Dwelling Unit Developments, by**
3 **revising Par. 2D to read as follows:**
4
5 2. Minimum lot width
6
7 D. The minimum lot width requirements presented in ~~Par. B~~ Paragraphs 2A and 2B
8 above may be waived by the Board in accordance with the provisions of Sect. ~~9-~~
9 ~~613~~ 9-610.
10
11 - **Amend the R-12 and R-16 Districts as follows:**
12
13 - **Amend Sections 3-1206 and 3-1606, Lot Size Requirements, by revising Par. 5 to**
14 **read as follows:**
15
16 5. The minimum lot width requirements presented in Par. 3A above may be waived by the
17 Board in accordance with the provisions of Sect. ~~9-613~~ 9-610.
18
19 - **Amend Sections 3-1210 and 3-1610, Affordable Dwelling Unit Developments, by**
20 **revising Par. 2C to read as follows:**
21
22 2. Minimum lot width
23
24 C. The minimum lot width requirement presented in Par. 2A above may be waived
25 by the Board in accordance with the provisions of Sect. ~~9-613~~ 9-610.
26
27 - **Amend the R-20 District as follows:**
28
29 - **Amend Sect. 3-2006, Lot Size Requirements, by revising Par. 5 to read as follows:**
30
31 5. The minimum lot width requirement presented in Par. 3A above may be waived by the
32 Board in accordance with the provisions of Sect. ~~9-613~~ 9-610.
33
34 - **Amend Sect. 3-2010, Affordable Dwelling Unit Developments, by revising Par. 1C**
35 **to read as follows:**
36
37 1. Minimum lot width
38
39 C. The minimum lot width requirement presented in Par. 1A above may be waived
40 by the Board in accordance with the provisions of Sect. ~~9-613~~ 9-610.
41

- 1 - **Amend the R-30 District, Sect. 3-3006, Lot Size Requirements, by adding a new Par. 5 to**
 2 **read as follows:**

3
 4 5. The minimum lot width requirements presented in Par. 3 above may be waived by the Board
 5 in accordance with the provisions of Sect. 9-610.

- 6
 7 - **Amend the R-MHP District, Sect. 3-M06, Lot Size Requirements, by adding a new Par. 5 to**
 8 **read as follows:**

9
 10 5. The minimum lot width requirements presented in Par. 4 above may be waived by the Board
 11 in accordance with the provisions of Sect. 9-610.

12
 13
 14 **Amend Article 8, Special Permits, as follows:**

- 15
 16 - **Amend Part 0, General Provisions, Sect. 8-011 , Submission Requirements, by revising the**
 17 **lead-in paragraph to read as follows:**

18
 19 All applications for special permit uses, except for temporary special permits, shall be accompanied by
 20 the following items, except that additional or modified submission requirements are set forth in Part 1
 21 for all Extraction and Excavation Uses, in Part 3 for Home Child Care Facilities, in Part 4 for certain
 22 Community Uses, in Parts 5 and 6 for certain Commercial Recreation and Outdoor Recreation Uses
 23 and in Part 9 for Approval of Modifications to Minimum Yard Requirements for Certain R-C Lots,
 24 Approval of Reduction in Minimum Yard Requirements Based on Error in Building Location, ~~and~~
 25 Modification of Certain Yard Requirements, Modification to the Limitations on the Keeping of Animals
 26 and Increase in Fence and/or Wall Height in Any Front Yard. Upon receipt of a written request with
 27 justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below,
 28 if it is determined that the requirement is clearly not necessary for the review of the application.

- 29
 30 - **Amend Part 9, Group 9 Uses Requiring Special Regulation, as follows:**

- 31
 32 - **Amend Sect. 8-901, Group 9 Special Permit Uses, by deleting Par. 15 and adding new**
 33 **Paragraphs 19, 20 and 21 to read as follows:**

34
 35 ~~15. Modification to the regulations on permitted extensions into minimum required yards.~~

36
 37 19. Modification of certain yard requirements.

38
 39 20. Modification of minimum yard requirements for certain existing structures and uses.

40
 41 21. Increase in height of fences and/or walls in any front yard.
 42

- 1 - Delete Sect. 8-916, Provisions for Modifications to the Regulations on Permitted
2 Extensions into Minimum Required Yards, in its entirety.

3
4 **~~8-916 Provisions for Modifications to the Regulations on Permitted Extensions into~~**
5 **~~Minimum Required Yards~~**

6
7 ~~The BZA may approve a special permit to allow a modification to the regulations on~~
8 ~~permitted extensions into minimum required yards, as set forth in Sect. 2-412, but only~~
9 ~~in accordance with the following:~~

- 10
11 ~~1. Such a modification may be approved if the BZA determines, based on~~
12 ~~topography of the lot and the size and bulk of the proposed extension, that the~~
13 ~~resultant development will not adversely impact the adjacent properties.~~
14
15 ~~2. The BZA may impose such conditions as it may deem necessary, to include~~
16 ~~landscaping and screening, to ensure that the extension will be compatible with the~~
17 ~~adjacent area.~~
18
19 ~~3. The BZA shall not approve a special permit for a modification that will result in an~~
20 ~~extension that exceeds the applicable distances specified in Sect. 2-412 by more~~
21 ~~than fifty (50) percent. In addition, where no extension is permitted by the~~
22 ~~provisions of Sect. 2-412, the BZA shall not approve a special permit that will~~
23 ~~result in a structure that extends into a minimum required yard by more than fifty~~
24 ~~(50) percent of the required yard.~~

- 25
26 - Add a new Sect. 8-920, Provisions for Modification of Certain Yard Requirements, to
27 read as follows:

28
29 **8-920 Provisions for Modification of Certain Yard Requirements**

30
31 The BZA may approve a special permit to allow a modification of certain yard
32 requirements subject to the following:

- 33
34 1. Such modification shall not result in any yard that is less than fifty (50) percent of
35 the following:
36
37 A. Minimum required yards of the applicable zoning district.
38
39 B. Yard regulations for pipestem lots and lots contiguous to pipestem
40 driveways set forth in Sect. 2-416.
41
42 C. Accessory structure location requirements set forth in Sect. 10-104.

Provided however, modification of such yard requirements shall not result in any yard of less than five (5) feet.

2. Such modification shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not permitted in that yard.
3. Such modification may result in an extension into a minimum required yard that exceeds the applicable distances set forth in Sect. 2-412 by up to fifty (50) percent. In addition, where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.
4. Such modification may be approved only if the BZA determines that the resultant development will be in character with the existing development on the site, is harmonious with the surrounding development, and shall not adversely impact the use and/or enjoyment of any adjacent property. The BZA may impose such conditions as it deems necessary to satisfy this criteria.
5. The BZA shall make the determination that such modification represents the minimum amount necessary to accommodate the structure given the existing environmental features and development on the lot, the existing development on adjacent properties and/or to further the preservation of historic resources.
6. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.

OPTION 1

- 1
- 2 D. The location, dimension and height of any building, structure or addition,
- 3 whether existing or proposed. In addition, for decks, the height of the
- 4 finished floor above finished ground level, and for accessory structures,
- 5 the height of the highest point of the structure from finished ground level.
- 6
- 7 E. All required minimum yards to include front, side and rear, and a graphic
- 8 depiction of the angle of bulk plane, if applicable, and the distances from
- 9 all existing and proposed structures to lot lines.
- 10
- 11 F. Means of ingress and egress to the property from a public street(s).
- 12
- 13 G. For nonresidential uses, the location of parking spaces, indicating
- 14 minimum distance from the nearest property line(s).
- 15
- 16 H. If applicable, the location of well and/or septic field.
- 17
- 18 I. For all uses, the gross floor area, and the FAR for all nonresidential uses.
- 19
- 20 J. Location of all existing utility easements having a width of twenty-five (25)
- 21 feet or more, and all major underground utility easements regardless of
- 22 width.
- 23
- 24 K. The location, type and height of any existing and proposed landscaping
- 25 and screening.
- 26
- 27 L. Approximate delineation of any floodplain designated by the Federal
- 28 Insurance Administration, United States Geological Survey, or Fairfax
- 29 County, the delineation of any Resource Protection Area and Resource
- 30 Management Area, and the approximate delineation of any environmental
- 31 quality corridor as defined in the adopted comprehensive plan, and, if
- 32 applicable, the distance of any existing and proposed structures from the
- 33 floodplain, Resource Protection Area and Resource Management Area,
- 34 or environmental quality corridor.
- 35
- 36 M. Seal and signature of professional person certifying the plat.
- 37
- 38 6. In addition to the photographs required by Par. 4 of Sect. 011 above,
- 39 photographs of the property shall be provided as seen from the front street line
- 40 and all other property boundaries. The photographs may be provided either in
- 41 print or digital format.
- 42

- 1 - **Add a new Sect. 8-921, Provisions for Modification of Minimum Yard Requirements**
2 **for Certain Existing Structures and Uses, to read as follows**

3
4 **8-921 Provisions for Modification of Minimum Yard Requirements for Certain**
5 **Existing Structures and Uses**

6
7 The BZA may approve, in conjunction with the approval of a special permit, a
8 modification of any yard requirement for an existing structure or use, including but not
9 limited to principal and accessory structures and off-street parking spaces, but only in
10 accordance with the following:

- 11
12 1. It shall be demonstrated that the existing structure or use complied with the
13 minimum required yards in effect when the use was established and that the yards
14 have not been reduced to less than the yards required by this Ordinance since
15 the effective date of this Ordinance, except by condemnation or by acquisition
16 for public purposes by any governmental agency.
17
18 2. The BZA may impose such conditions as it deems necessary, to include
19 landscaping and screening, to minimize the impact of the existing structure or use
20 on adjacent properties.

- 21
22 - **Add a new Sect. 8-922, Provisions for Increase in Height of Fences and/or Walls in**
23 **Any Front Yard, to read as follows:**

24
25 **8-922 Provisions for Increase in Height of Fences and/or Walls in Any Front Yard**

26
27 The BZA may approve a special permit to allow an increase in height of fences and/or
28 walls in any front yard, to a maximum height of six (6) feet, but only in accordance with
29 the following:

- 30
31 1. Such increase may be approved only if the BZA determines that the resultant
32 fence and/or wall will be in character with the existing development on the site, is
33 harmonious with the surrounding development, and will not adversely impact the
34 use and/or enjoyment of any adjacent property. The BZA may impose such
35 conditions as it deems necessary to satisfy this criteria.
36
37 2. The fence and/or wall shall meet the sight distance requirements contained in
38 Sect. 2-505.
39
40 3. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be
41 accompanied by fifteen (15) copies of a plat and such plat shall be presented on
42 a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the

OPTION 1

1 plat. Such plat shall be drawn to a designated scale of not less than one inch
2 equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the
3 development. Such plat shall be certified by a professional engineer, land
4 surveyor, architect, or landscape architect licensed by the State of Virginia.
5 Such plat shall contain the following information:

- 6
- 7 A. Boundaries of entire property, with bearings and distances of the
8 perimeter property lines, and of each zoning district.
- 9
- 10 B. Total area of the property and of each zoning district in square feet or
11 acres.
- 12
- 13 C. Scale and north arrow, with north, to the extent feasible, oriented to the
14 top of the plat and on all supporting graphics.
- 15
- 16 D. The location, dimension and height of any building or structure, including
17 fences and walls, whether existing or proposed.
- 18
- 19 E. All required minimum yards to include front, side and rear, and a graphic
20 depiction of the angle of bulk plane, if applicable, and the distances from
21 all existing and proposed structures to lot lines.
- 22
- 23 F. Means of ingress and egress to the property from a public street(s).
- 24
- 25 G. For nonresidential uses, the location of parking spaces, indicating
26 minimum distance from the nearest property line(s).
- 27
- 28 H. If applicable, the location of well and/or septic field.
- 29
- 30 I. For all uses, the gross floor area, and the FAR for all nonresidential uses.
- 31
- 32 J. Location of all existing utility easements having a width of twenty-five (25)
33 feet or more, and all major underground utility easements regardless of
34 width.
- 35
- 36 K. The location, type and height of any existing and proposed landscaping
37 and screening.
- 38
- 39 L. Approximate delineation of any floodplain designated by the Federal
40 Insurance Administration, United States Geological Survey, or Fairfax
41 County, the delineation of any Resource Protection Area and Resource
42 Management Area, and the approximate delineation of any environmental

quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

4. In addition to the photographs required by Par. 4 of Sect 011 above, photographs of the property shall be provided as seen from the front street line and all other property boundaries. The photographs may be provided either in print or digital format.

Amend Article 9, Special Exceptions, Part 6, Category 6 Miscellaneous Provisions Requiring Board of Supervisors' Approval, as follows:

- **Amend Sect. 9-601, Category 6 Special Exception Uses, by revising Par. 10 and adding a new Par. 21 to read as follows:**

Category 6 special exceptions consist of those miscellaneous provisions set forth in various Articles of this Ordinance, which require special approval or authorization from the Board.

10. ~~Waiver of minimum lot width~~, minimum yard and privacy yard requirements for single family attached dwelling units.

21. Modification of minimum yard requirements for certain existing structures and uses.

- **Amend Sect. 9-610, Provisions for Waiving Minimum Lot Size Requirements, to read as follows:**

The Board may approve, either in conjunction with the approval of a rezoning or as a special exception, the waiving of the minimum district size and/or lot width requirements for an R District, except for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, the minimum lot area and/or lot width requirements for a C district or the minimum district size requirement for the C-9 District, and the minimum district size, lot area and/or lot width requirements for an I district, but only in accordance with the following:

1. Such lot has not been reduced in width or area since the effective date of this Ordinance to a width or area less than required by this Ordinance.
2. Such waiver shall result in a development that preserves existing vegetation, topography, historic resources and/or other environmental features to the greatest extent practical.

23. It shall be demonstrated that development of the subject lot will not have any deleterious effect on the existing or planned development of adjacent properties.

34. Such waiver shall be approved only if the remaining provisions of this Ordinance can be satisfied.

- **Amend Sect. 9-613, Provisions for Waiving Minimum Lot Width, Minimum Yard and Privacy Yard Requirements for Single Family Attached Dwelling Units, to read as follows:**

9-613 Provisions for Waiving ~~Minimum Lot Width~~, Minimum Yard and Privacy Yard Requirements for Single Family Attached Dwelling Units

The Board may approve, either in conjunction with the approval of a rezoning or a special exception, the waiving of the ~~minimum lot width~~, minimum yard and/or privacy yard requirements for single family attached dwelling units. Such waiver may be approved only if it will further the intent of the Ordinance, and the intent and implementation of the adopted comprehensive plan and other adopted policies.

- **Add a new Sect. 9-624, Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses, to read as follows**

9-624 Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses

The Board may approve in conjunction with the approval of a rezoning or special exception, a modification of any yard requirement for an existing structure or use, including but not limited to principal and accessory structures and off-street parking spaces, but only in accordance with the following:

1. It shall be demonstrated that the existing structure or use complied with the minimum required yards in effect when the use was established and that the yards have not been reduced to less than the yards required by this Ordinance since the effective date of this Ordinance, except by condemnation or by acquisition for public purposes by any governmental agency.
2. The Board may impose such conditions as it deems necessary, to include landscaping and screening, to minimize the impact of the existing structure or use on adjacent properties.

1 **Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1,**
2 **Accessory Uses and Structure, Sect. 10-104, Location Regulations, by amending the introductory**
3 **paragraph to Par. 3 to read as follows:**
4

- 5 3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as ~~follows~~ set forth
6 below. In addition, an increase to the maximum fence or wall height from that set forth in this
7 paragraph may be permitted with approval of a special permit by the Board of Zoning Appeals in
8 accordance with Sect. 8-922, or by the Board of Supervisors in P districts pursuant to Sect. 16-
9 401. Such regulations shall not be deemed to negate the screening requirements of Article 13.
10
11

12 **Amend Article 11, Off-Street Parking and Loading, Private Streets, Part 1, Off-Street Parking,**
13 **Sect. 11-102, General Provisions, by revising the introductory paragraph to Par. 8 to read as**
14 **follows:**
15

- 16 8. Except as may be qualified elsewhere in this Ordinance, off-street parking spaces that are located on
17 the ground and are open to the sky may be located in any required yard but not closer than ten (10)
18 feet to any front lot line, unless modified by the Board or BZA pursuant to Part 2 of Article 13;
19 except that this ten (10) foot minimum distance shall not be required between parking spaces
20 provided for single family attached dwellings in parking bays and the front lot lines of single family
21 detached dwelling unit lots and shall not apply to parking spaces provided for and on the same lot
22 with single family detached or attached dwellings, provided such space shall not encroach into any
23 sidewalk or trail.

24 For single family detached dwellings on lots containing 36,000 square feet or less in the R-1, R-2,
25 R-3 and R-4 Districts, all parking for vehicles or trailers in a front yard shall be on a surfaced area,
26 provided, however, that this shall not be deemed to preclude temporary parking on an unsurfaced
27 area in a front yard for a period not to exceed forty-eight (48) hours for loading, unloading, cleaning
28 or repair of vehicles or trailers. In addition, in the R-1 and R-2 Districts, no more than twenty-five
29 (25) percent of any front yard and in the R-3 and R-4 Districts, no more than thirty (30) percent of
30 any front yard shall be surfaced area for a driveway or vehicle/trailer parking area; provided,
31 however, that these limitations may be exceeded for a surfaced area that is:
32
33

34 **Amend Article 13, Landscaping and Screening, Part 2, Parking Lot Landscaping, Sect. 13-202,**
35 **Peripheral Parking Lot Landscaping, by revising Par. 3 to read as follows:**
36

37 If any parking lot contains twenty (20) or more spaces and transitional screening is not required by Sections
38 301 and 302 below, then peripheral parking lot landscaping shall be required as follows:
39

- 40 3. The Board, in conjunction with the approval of a rezoning or special exception, and the BZA, in
41 conjunction with the approval of a special permit, may approve a waiver or modification of the
42 requirements of this Section and the requirement to provide a ten (10) foot minimum distance

OPTION 1

between a front lot line and an off-street parking space set forth in Par. 8 of Sect. 11-102. Such waiver or modification may be approved:

- A. For an interim use of a specified duration, and/or where deemed appropriate due to the location, size, surrounding area or configuration of the parking lot; and
- B. Where such waiver or modification will not have any deleterious effect on the existing or planned development of adjacent properties.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by amending the Group 9 and Category 6 entries in Par. 1 and revising Par. 2 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

Filing Fee

1. Application for a variance, appeal, special permit or special exception:
 - Application for a:
 - Group 9 special permit
 - Open air produce stand \$ 380
 - Accessory dwelling unit \$ 92
 - Modification to minimum yard requirements for R-C lots \$ 40
 - Modification to the limitations on the keeping of animals; error in building location; ~~modification to permitted extension regulations;~~ modification of certain yard requirements; noise barriers on a single residential lot; increase in fence and/or wall height in front yards \$ 190
 - All other uses \$ 3416
 - Application for a:
 - Category 6 special exception
 - Reduction of yard requirements for the reconstruction of certain single family detached dwellings that are destroyed by casualty \$ 0
 - Waiver of minimum lot width requirements in residential districts \$ 1708
 - All other uses \$ 3416
2. Application for an amendment to the Zoning Map:

OPTION 1

District Requested	Filing Fee
All R Districts	\$5693 plus \$121 per acre
All C, I and Overlay Districts	\$5693 plus \$190 per acre
PRC District	\$5693 plus \$190 per acre
PDH, PDC and PRM District	
Application with conceptual development plan	\$5693 plus \$190 per acre
Application with concurrent filing of conceptual and final development plans	\$5693 plus \$282 per acre
Final development plan	\$2846 plus \$92 per acre
Amendment to a pending application for an amendment to the Zoning Map	\$949 plus applicable per acre fee for acreage affected by the amendment
Amendment to a pending application for a final development plan or development plan amendment	\$863
<u>Amendment to a previously approved final development or development plan for an increase of fence and/or wall height or the modification of yard requirements on individual single family dwelling lots</u>	<u>\$190</u>
<u>All other amendments to a previously approved development plan, proffered condition, conceptual development plan, final development plan or concurrent conceptual/final development plan,</u>	
<u>With new construction</u>	\$2846 plus applicable per acre fee for acreage affected by the amendment
Amendment to a previously approved development plan, proffered condition, conceptual development plan or concurrent conceptual/final development plan,	
<u>With no new construction</u>	\$2846

OPTION 1

1 ~~Amendment to a previously approved final development~~ \$2846 plus applicable per
2 ~~development plan with new construction —~~ acre fee for acreage affected
3 by the amendment

4
5 ~~Amendment to a previously approved final development~~ \$2846
6 ~~plan with no new construction~~

7
8 **Note:** For purpose of computing acreage fees, any portion of an acre shall be counted as
9 an acre.

10
11 The fee for an amendment to a pending application is only applicable when the
12 amendment request results in a change in land area, change in use or other
13 substantial revision.

PROPOSED AMENDMENT

**OPTION 2 - INCLUDES A NEW SPECIAL PERMIT FOR WAIVER
OF MINIMUM LOT WIDTH REQUIREMENTS IN RESIDENTIAL DISTRICTS**

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of December 6, 2004 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 3, Residential District Regulations, as follows:

- Amend the R-A and R-P Districts, Sections 3-A06 and 3-P06, Lot Size Requirements, by adding a new Par. 4 to read as follows:
 - 4. The minimum lot width requirement presented in Par. 2 above may be waived by the BZA in accordance with the provisions of Sect. 8-923.
- Amend the R-C District, Section 3-C06, Lot Size Requirements, by adding new Paragraphs 4 and 5 to read as follows:
 - 4. The minimum district size requirement presented in Par. 1 above may be waived by the Board in accordance with Sect. 9-610.
 - 5. The minimum lot width requirements presented in Par. 3 above may be waived by the BZA in accordance with Sect. 8-923.
- Amend the R-E and R-1 Districts, Sections 3-E06 and 3-106, Lot Size Requirements, by adding a new Par. 6 to read as follows:
 - 6. The minimum lot width requirements presented in Par. 4 above may be waived by the BZA in accordance with the provisions of Sect. 8-923.
- Amend the R-2 District as follows:

OPTION 2

- 1 - **Amend Sect. 3-206, Lot Size Requirements, by adding a new Par. 5 to read as**
2 **follows:**
- 3
- 4 5. The minimum lot width requirements presented in Par. 4A above may be waived by the
5 BZA in accordance with Sect. 8-923.
- 6
- 7 - **Amend Sect. 3-210, Affordable Dwelling Unit Developments, by revising Par. 2C and**
8 **adding a new Par. 2D to read as follows:**
- 9
- 10 2. Minimum lot width
- 11
- 12 C. Single family attached dwellings: 14 feet, ~~which may be waived by the Board in~~
13 ~~accordance with the provisions of Sect. 9-613.~~
- 14
- 15 D. The minimum lot width requirements presented in Paragraphs 2A and 2C above
16 may be waived by the BZA in accordance with Sect. 8-923.
- 17
- 18 - **Amend the R-3 and R-4 Districts as follows:**
- 19
- 20 - **Amend Sections 3-306 and 3-406, Lot Size Requirements, by adding a new Par. 5 to**
21 **read as follows:**
- 22
- 23 5. The minimum lot width requirements presented in Par. 4A above may be waived by the
24 BZA in accordance with the provisions of Sect. 8-923.
- 25
- 26 - **Amend Sections 3-310 and 3-410, Affordable Dwelling Unit Developments, by**
27 **revising Par. 2C and adding a new Par. 2D to read as follows:**
- 28
- 29 2. Minimum lot width
- 30
- 31 C. Single family attached dwellings: 14 feet, ~~which may be waived by the Board~~
32 ~~for conventional subdivisions in accordance with the provisions of Sect. 9-613.~~
- 33
- 34 D. The minimum lot width requirements presented in Paragraphs 2A and 2C above
35 may be waived by the BZA in accordance with the provisions of Sect. 8-923.
- 36
- 37 - **Amend the R-5 and R-8 Districts as follows:**
- 38
- 39 - **Amend Sections 3-506 and 3-806, Lot Size Requirements, by revising Par. 5 to read**
40 **as follows:**
- 41

OPTION 2

5. The minimum lot width requirements presented in Par. 3B above may be waived by the Board in accordance with the provisions of Sect. 9-613 or by the BZA in accordance with Sect. 8-923.

- **Amend Sections 3-510 and 3-810, Affordable Dwelling Unit Developments, by revising Par. 2D to read as follows:**

2. Minimum lot width

D. The minimum lot width requirements presented in ~~Par. B~~ Paragraphs 2A and 2B above may be waived by the Board in accordance with the provisions of Sect. 9-613 or by the BZA in accordance with Sect. 8-923.

- **Amend the R-12 and R-16 Districts as follows:**

- **Amend Sections 3-1206 and 3-1606, Lot Size Requirements, by revising Par. 5 to read as follows:**

5. The minimum lot width requirements presented in Par. 3A above may be waived by the Board in accordance with the provisions of Sect. 9-613 or by the BZA in accordance with Sect. 8-923.

- **Amend Sections 3-1210 and 3-1610, Affordable Dwelling Unit Developments, by revising Par. 2C to read as follows:**

2. Minimum lot width

C. The minimum lot width requirement presented in Par. 2A above may be waived by the Board in accordance with the provisions of Sect. 9-613 or by the BZA in accordance with Sect. 8-923.

- **Amend the R-20 District as follows:**

- **Amend Sect. 3-2006, Lot Size Requirements, by revising Par. 5 to read as follows:**

5. The minimum lot width requirement presented in Par. 3A above may be waived by the Board in accordance with the provisions of Sect. 9-613 or by the BZA in accordance with Sect. 8-923.

- **Amend Sect. 3-2010, Affordable Dwelling Unit Developments, by revising Par. 1C to read as follows:**

1. Minimum lot width

- C. The minimum lot width requirement presented in Par. 1A above may be waived by the Board in accordance with the provisions of Sect. 9-613 or by the BZA in accordance with Sect. 8-923.

- **Amend the R-30 District, Sect. 3-3006, Lot Size Requirements, by adding a new Par. 5 to read as follows:**

5. The minimum lot width requirements presented in Par. 3 above may be waived by the BZA in accordance with the provisions of Sect. 8-923.

- **Amend the R-MHP District, Sect. 3-M06, Lot Size Requirements, by adding a new Par. 5 to read as follows:**

5. The minimum lot width requirements presented in Par. 4 above may be waived by the BZA in accordance with the provisions of Sect. 8-923.

Amend Article 8, Special Permits, as follows:

- **Amend Part 0, General Provisions, Sect. 8-011 , Submission Requirements, by revising the lead-in paragraph to read as follows:**

All applications for special permit uses, except for temporary special permits, shall be accompanied by the following items, except that additional or modified submission requirements are set forth in Part 1 for all Extraction and Excavation Uses, in Part 3 for Home Child Care Facilities, in Part 4 for certain Community Uses, in Parts 5 and 6 for certain Commercial Recreation and Outdoor Recreation Uses and in Part 9 for Approval of Modifications to Minimum Yard Requirements for Certain R-C Lots, Approval of Reduction in Minimum Yard Requirements Based on Error in Building Location, and Modification of Certain Yard Requirements, Modification to the Limitations on the Keeping of Animals and Increase in Fence and/or Wall Height in Any Front Yard. Upon receipt of a written request with justification, the Zoning Administrator may modify or waive a submission requirement of Par. 2 below, if it is determined that the requirement is clearly not necessary for the review of the application.

- **Amend Part 9, Group 9 Uses Requiring Special Regulation, as follows:**

- **Amend Sect. 8-901, Group 9 Special Permit Uses, by deleting Par. 15 and adding new Paragraphs 19, 20, 21 and 22 to read as follows:**

~~15. Modification to the regulations on permitted extensions into minimum required yards.~~

1 19. Modification of certain yard requirements.

2
3 20. Modification of minimum yard requirements for certain existing structures and uses.

4
5 21. Increase in height of fences and/or walls in any front yard.

6
7 22. Waiver of minimum lot width requirements in residential districts.

- 8
9 - **Delete Sect. 8-916, Provisions for Modifications to the Regulations on Permitted**
10 **Extensions into Minimum Required Yards, in its entirety.**

11
12 **8-916 Provisions for Modifications to the Regulations on Permitted Extensions into**
13 **Minimum Required Yards**

14
15 The BZA may approve a special permit to allow a modification to the regulations on
16 permitted extensions into minimum required yards, as set forth in Sect. 2-412, but only
17 in accordance with the following:

- 18
19 1. ~~Such a modification may be approved if the BZA determines, based on~~
20 ~~topography of the lot and the size and bulk of the proposed extension, that the~~
21 ~~resultant development will not adversely impact the adjacent properties.~~
22
23 2. ~~The BZA may impose such conditions as it may deem necessary, to include~~
24 ~~landscaping and screening, to ensure that the extension will be compatible with the~~
25 ~~adjacent area.~~
26
27 3. ~~The BZA shall not approve a special permit for a modification that will result in an~~
28 ~~extension that exceeds the applicable distances specified in Sect. 2-412 by more~~
29 ~~than fifty (50) percent. In addition, where no extension is permitted by the~~
30 ~~provisions of Sect. 2-412, the BZA shall not approve a special permit that will~~
31 ~~result in a structure that extends into a minimum required yard by more than fifty~~
32 ~~(50) percent of the required yard.~~

- 33
34 - **Add a new Sect. 8-920, Provisions for Modification of Certain Yard Requirements, to**
35 **read as follows:**

36
37 **8-920 Provisions for Modification of Certain Yard Requirements**

38
39 The BZA may approve a special permit to allow a modification of certain yard
40 requirements subject to the following:

OPTION 2

1. Such modification shall not result in any yard that is less than fifty (50) percent of the following:
 - A. Minimum required yards of the applicable zoning district.
 - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
 - C. Accessory structure location requirements set forth in Sect. 10-104.

Provided however, modification of such yard requirements shall not result in any yard of less than five (5) feet.
2. Such modification shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not permitted in that yard.
3. Such modification may result in an extension into a minimum required yard that exceeds the applicable distances set forth in Sect. 2-412 by up to fifty (50) percent. In addition, where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.
4. Such modification may be approved only if the BZA determines that the resultant development will be in character with the existing development on the site, is harmonious with the surrounding development, and shall not adversely impact the use and/or enjoyment of any adjacent property. The BZA may impose such conditions as it deems necessary to satisfy this criteria.
5. The BZA shall make the determination that such modification represents the minimum amount necessary to accommodate the structure given the existing environmental features and development on the lot, the existing development on adjacent properties and/or to further the preservation of historic resources.
6. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

OPTION 2

- 1
- 2 A. Boundaries of entire property, with bearings and distances of the
- 3 perimeter property lines, and of each zoning district.
- 4
- 5 B. Total area of the property and of each zoning district in square feet or
- 6 acres.
- 7
- 8 C. Scale and north arrow, with north, to the extent feasible, oriented to the
- 9 top of the plat and on all supporting graphics.
- 10
- 11 D. The location, dimension and height of any building, structure or addition,
- 12 whether existing or proposed. In addition, for decks, the height of the
- 13 finished floor above finished ground level, and for accessory structures,
- 14 the height of the highest point of the structure from finished ground level.
- 15
- 16 E. All required minimum yards to include front, side and rear, and a graphic
- 17 depiction of the angle of bulk plane, if applicable, and the distances from
- 18 all existing and proposed structures to lot lines.
- 19
- 20 F. Means of ingress and egress to the property from a public street(s).
- 21
- 22 G. For nonresidential uses, the location of parking spaces, indicating
- 23 minimum distance from the nearest property line(s).
- 24
- 25 H. If applicable, the location of well and/or septic field.
- 26
- 27 I. For all uses, the gross floor area, and the FAR for all nonresidential uses.
- 28
- 29 J. Location of all existing utility easements having a width of twenty-five (25)
- 30 feet or more, and all major underground utility easements regardless of
- 31 width.
- 32
- 33 K. The location, type and height of any existing and proposed landscaping
- 34 and screening.
- 35
- 36 L. Approximate delineation of any floodplain designated by the Federal
- 37 Insurance Administration, United States Geological Survey, or Fairfax
- 38 County, the delineation of any Resource Protection Area and Resource
- 39 Management Area, and the approximate delineation of any environmental
- 40 quality corridor as defined in the adopted comprehensive plan, and, if
- 41 applicable, the distance of any existing and proposed structures from the

floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

6. In addition to the photographs required by Par. 4 of Sect. 011 above, photographs of the property shall be provided as seen from the front street line and all other property boundaries. The photographs may be provided either in print or digital format.

- **Add a new Sect. 8-921, Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses, to read as follows**

8-921 Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses

The BZA may approve, in conjunction with the approval of a special permit, a modification of any yard requirement for an existing structure or use, including but not limited to principal and accessory structures and off-street parking spaces, but only in accordance with the following:

1. It shall be demonstrated that the existing structure or use complied with the minimum required yards in effect when the use was established and that the yards have not been reduced to less than the yards required by this Ordinance since the effective date of this Ordinance, except by condemnation or by acquisition for public purposes by any governmental agency.
2. The BZA may impose such conditions as it deems necessary, to include landscaping and screening, to minimize the impact of the existing structure or use on adjacent properties.

- **Add a new Sect. 8-922, Provisions for Increase in Height of Fences and/or Walls in Any Front Yard, to read as follows:**

8-922 Provisions for Increase in Height of Fences and/or Walls in Any Front Yard

The BZA may approve a special permit to allow an increase in height of fences and/or walls in any front yard, to a maximum height of six (6) feet, but only in accordance with the following:

1. Such increase may be approved only if the BZA determines that the resultant fence and/or wall will be in character with the existing development on the site, is

OPTION 2

1 harmonious with the surrounding development, and will not adversely impact the
2 use and/or enjoyment of any adjacent property. The BZA may impose such
3 conditions as it deems necessary to satisfy this criteria.

4
5 2. The fence and/or wall shall meet the sight distance requirements contained in
6 Sect. 2-505.

7
8 3. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be
9 accompanied by fifteen (15) copies of a plat and such plat shall be presented on
10 a sheet having a maximum size of 24" x 36", and one 8 1/2" x 11" reduction of the
11 plat. Such plat shall be drawn to a designated scale of not less than one inch
12 equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the
13 development. Such plat shall be certified by a professional engineer, land
14 surveyor, architect, or landscape architect licensed by the State of Virginia.
15 Such plat shall contain the following information:

16
17 A. Boundaries of entire property, with bearings and distances of the
18 perimeter property lines, and of each zoning district.

19
20 B. Total area of the property and of each zoning district in square feet or
21 acres.

22
23 C. Scale and north arrow, with north, to the extent feasible, oriented to the
24 top of the plat and on all supporting graphics.

25
26 D. The location, dimension and height of any building or structure, including
27 fences and walls, whether existing or proposed.

28
29 E. All required minimum yards to include front, side and rear, and a graphic
30 depiction of the angle of bulk plane, if applicable, and the distances from
31 all existing and proposed structures to lot lines.

32
33 F. Means of ingress and egress to the property from a public street(s).

34
35 G. For nonresidential uses, the location of parking spaces, indicating
36 minimum distance from the nearest property line(s).

37
38 H. If applicable, the location of well and/or septic field.

39
40 I. For all uses, the gross floor area, and the FAR for all nonresidential uses.
41

OPTION 2

J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. The location, type and height of any existing and proposed landscaping and screening.

L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

4. In addition to the photographs required by Par. 4 of Sect 011 above, photographs of the property shall be provided as seen from the front street line and all other property boundaries. The photographs may be provided either in print or digital format.

- **Add a new Sect. 8-923, Provisions for Waiving Minimum Lot Width Requirements in Residential Districts, to read as follows:**

8-923 Provisions for Waiving Minimum Lot Width Requirements in Residential Districts

The BZA may approve a special permit to allow the waiver of the minimum lot width requirements for an R District, except for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, but only in accordance with the following:

1. Such lot has not been reduced in width or area since the effective date of this Ordinance to a width or area less than required by this Ordinance.
2. Such waiver shall result in a development that preserves existing vegetation, topography, historic resources and/or other environmental features to the greatest extent practical.

OPTION 2

3. It shall be demonstrated that development of the subject lot will not have any deleterious effect on the existing or planned development of adjacent properties.

4. Such waiver shall be approved only if the remaining provisions of this Ordinance can be satisfied.

Amend Article 9, Special Exceptions, Part 6, Category 6 Miscellaneous Provisions Requiring Board of Supervisors' Approval, as follows:

- **Amend Sect. 9-601, Category 6 Special Exception Uses, by revising Par. 10 and adding a new Par. 21 to read as follows:**

Category 6 special exceptions consist of those miscellaneous provisions set forth in various Articles of this Ordinance, which require special approval or authorization from the Board.

10. Waiver of ~~minimum lot width~~, minimum yard and privacy yard requirements for single family attached dwelling units.

21. Modification of minimum yard requirements for certain existing structures and uses.

- **Add a new Sect. 9-624, Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses, to read as follows**

9-624 Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses

The Board may approve in conjunction with the approval of a rezoning or special exception, a modification of any yard requirement for an existing structure or use, including but not limited to principal and accessory structures and off-street parking spaces, but only in accordance with the following:

1. It shall be demonstrated that the existing structure or use complied with the minimum required yards in effect when the use was established and that the yards have not been reduced to less than the yards required by this Ordinance since the effective date of this Ordinance, except by condemnation or by acquisition for public purposes by any governmental agency.
2. The Board may impose such conditions as it deems necessary, to include landscaping and screening, to minimize the impact of the existing structure or use on adjacent properties.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structure, Sect. 10-104, Location Regulations, by amending the introductory paragraph to Par. 3 to read as follows:

3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as ~~follows~~ set forth below. In addition, an increase to the maximum fence or wall height from that set forth in this paragraph may be permitted with approval of a special permit by the Board of Zoning Appeals in accordance with Sect. 8-922, or by the Board of Supervisors in P districts pursuant to Sect. 16-401. Such regulations shall not be deemed to negate the screening requirements of Article 13.

Amend Article 11, Off-Street Parking and Loading, Private Streets, Part 1, Off-Street Parking, Sect. 11-102, General Provisions, by revising the introductory paragraph to Par. 8 to read as follows:

8. Except as may be qualified elsewhere in this Ordinance, off-street parking spaces that are located on the ground and are open to the sky may be located in any required yard but not closer than ten (10) feet to any front lot line, unless modified by the Board or BZA pursuant to Part 2 of Article 13; except that this ten (10) foot minimum distance shall not be required between parking spaces provided for single family attached dwellings in parking bays and the front lot lines of single family detached dwelling unit lots and shall not apply to parking spaces provided for and on the same lot with single family detached or attached dwellings, provided such space shall not encroach into any sidewalk or trail.

For single family detached dwellings on lots containing 36,000 square feet or less in the R-1, R-2, R-3 and R-4 Districts, all parking for vehicles or trailers in a front yard shall be on a surfaced area, provided, however, that this shall not be deemed to preclude temporary parking on an unsurfaced area in a front yard for a period not to exceed forty-eight (48) hours for loading, unloading, cleaning or repair of vehicles or trailers. In addition, in the R-1 and R-2 Districts, no more than twenty-five (25) percent of any front yard and in the R-3 and R-4 Districts, no more than thirty (30) percent of any front yard shall be surfaced area for a driveway or vehicle/trailer parking area; provided, however, that these limitations may be exceeded for a surfaced area that is:

Amend Article 13, Landscaping and Screening, Part 2, Parking Lot Landscaping, Sect. 13-202, Peripheral Parking Lot Landscaping, by revising Par. 3 to read as follows:

If any parking lot contains twenty (20) or more spaces and transitional screening is not required by Sections 301 and 302 below, then peripheral parking lot landscaping shall be required as follows:

3. The Board, in conjunction with the approval of a rezoning or special exception, and the BZA, in conjunction with the approval of a special permit, may approve a waiver or modification of the

OPTION 2

requirements of this Section and the requirement to provide a ten (10) foot minimum distance between a front lot line and an off-street parking space set forth in Par. 8 of Sect. 11-102. Such waiver or modification may be approved:

- A. For an interim use of a specified duration, and/or where deemed appropriate due to the location, size, surrounding area or configuration of the parking lot; and
- B. Where such waiver or modification will not have any deleterious effect on the existing or planned development of adjacent properties.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by amending the Group 9 entry in Par. 1 and revising Par. 2 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

Filing Fee

1. Application for a variance, appeal, special permit or special exception:

Application for a:

Group 9 special permit

Open air produce stand \$ 380

Accessory dwelling unit \$ 92

Modification to minimum yard requirements for R-C lots \$ 40

Modification to the limitations on the keeping of animals; error in \$ 190

building location; ~~modification to permitted extension regulations;~~

modification of certain yard requirements; noise barriers on a single

residential lot; increase in fence and/or wall height in front yards

Waiver of minimum lot width requirements in residential districts \$ 1708

All other uses \$ 3416

2. Application for an amendment to the Zoning Map:

District Requested**Filing Fee**

All R Districts

\$5693 plus \$121 per acre

OPTION 2

All C, I and Overlay Districts	\$5693 plus \$190 per acre
PRC District	\$5693 plus \$190 per acre
PDH, PDC and PRM District	
Application with conceptual development plan	\$5693 plus \$190 per acre
Application with concurrent filing of conceptual and final development plans	\$5693 plus \$282 per acre
Final development plan	\$2846 plus \$92 per acre
Amendment to a pending application for an amendment to the Zoning Map	\$949 plus applicable per acre fee for acreage affected by the amendment
Amendment to a pending application for a final development plan or development plan amendment	\$863
<u>Amendment to a previously approved final development or development plan for an increase of fence and/or wall height or the modification of yard requirements on individual single family dwelling lots</u>	<u>\$190</u>
<u>All other amendments to a previously approved development plan, proffered condition, conceptual development plan, final development plan or concurrent conceptual/final development plan,</u>	
<u>With new construction</u>	\$2846 plus applicable per acre fee for acreage affected by the amendment
Amendment to a previously approved development plan, proffered condition, conceptual development plan or concurrent conceptual/final development plan, With no new construction	\$2846
Amendment to a previously approved final development development plan with new construction —	\$2846 plus applicable per acre fee for acreage affected by the amendment

OPTION 2

1 ~~Amendment to a previously approved final development~~ \$2846
2 ~~plan with no new construction~~

3
4 **Note:** For purpose of computing acreage fees, any portion of an acre shall be counted as
5 an acre.

6
7 The fee for an amendment to a pending application is only applicable when the
8 amendment request results in a change in land area, change in use or other
9 substantial revision.

ATTACHMENT A

POTENTIAL AMENDMENTS FOR FUTURE PHASES

Height

- Modify the existing provisions to allow the Board of Supervisors to increase the maximum building height limitations with special exception approval.

Under the current provisions, special exception approval is required to increase the height of buildings in most commercial and industrial districts. In residential districts, variance approval by the BZA is required to allow an increase in building height.

- Consider allowing the Zoning Administrator to administratively approve increases in fence or wall height by up to 10% in limited circumstances, such as changes in topography.

Currently the Zoning Administrator has no authority to allow an increase in the height of a fence or wall. Therefore, most increases in fence or wall height currently require variance approval by the BZA. However, a noise barrier that exceeds the maximum allowable fence limitations may be approved with special permit approval by the BZA or by the Board in conjunction with the approval of rezoning or special exception application. This proposal would establish a process that is similar to the Zoning Administrator's current ability to reduce the minimum yard requirements by up to 10% in certain limited situations.

- Review the methodology used for measuring the height of accessory structures and consider increasing the height of accessory structures that can be located anywhere in the rear or side yards.

Height for accessory structures is measured from the lowest point of grade to the tallest point of the structure. A shed that is greater than 8½ feet in height or other accessory structures that are greater than 7 feet in height are required to be setback a minimum distance from the rear lot line that is equal to its height and are not permitted in the minimum required side yard. Sheds that are up to 8½ feet in height and other accessory structures that are up to 7 feet in height can locate in any side or rear yard.

- Allow the Board of Supervisors to increase the maximum fence or wall height in conjunction with special exception or rezoning approval.

This proposal eliminates the need for a separate variance application and public

hearing process through the BZA, thereby reducing the processing time and costs of both applicants and staff.

ATTACHMENT A

Minimum Yard Requirements

- Allow the Board of Supervisors to modify the minimum required yards for new structures in conjunction with special exception or rezoning approval.

This proposal eliminates the need for a separate variance application and public hearing process through the BZA, thereby reducing the processing time and costs of both applicants and staff.

- Delete patios from the deck definition, and allow certain lattice screening walls and/or limited trellis-like features on decks for single family dwellings without requiring such features to meet the minimum required yards of the district in which located.

Under the definition of deck contained in Article 20 of the Zoning Ordinance, any patio is considered a deck. As such, patios flush to the ground are subject to the provisions of Sect. 2-412, Permitted Extensions into Minimum Required Yards, and can extend into the minimum side and rear yard a certain distance, but no closer than 5 feet to any side or rear lot line. Under the current Zoning Ordinance, lattice work on the side of decks that is more than 4 feet in height is not considered a deck and, therefore, cannot extend into the minimum required yards pursuant to Sect. 2-412.

Submission Requirements

- Enhance the current photographic submission requirement for all special permit and special exception applications to require that photographs of the property be provided as seen from the front street line and all other property boundaries. It is also proposed to allow the photographs to be submitted in either print or digital format.

All special permit and special exception applications currently require the submission of photographs of the property that show existing structures, terrain and vegetation. It is believed that the additional photographic information would facilitate the review all special permit and special exception applications.

ATTACHMENT B

CURRENT ZONING ORDINANCE PROVISIONS THAT ESTABLISH MINIMUM YARD REQUIREMENTS (OTHER THAN MINIMUM REQUIRED YARDS OF INDIVIDUAL ZONING DISTRICTS) AND ALLOW REDUCTION OR MODIFICATION OF CERTAIN MINIMUM YARD REQUIREMENTS

Sect. 2-412 - Permitted Extensions into Minimum Required Yards

This provision allows certain attached accessory structures to extend into the minimum required yards specified for each district, including carports, decks, stoops, bay windows, eaves and other similar features. In cases where compliance cannot be achieved for the desired structure, a property owner may seek special permit approval for a reduction of up to 50% under Sect. 8-916, described below.

Sect. 2-414 - Yard Regulations for Lots Abutting Certain Principal Arterial Highways and Railroad Tracks

This provision requires a minimum setback between principal structures and interstate highways, the Dulles Airport Access Road or railroad tracks. This provision can be modified by the Board when requested in association with a rezoning.

Sect. 2-415 - Yard Regulations for Lots Having Area in Floodplain

This provision requires a minimum setback of 15 feet between a dwelling and the edge of a flood plain.

Sect 2-416 - Yard Regulations for Pipestem Lots and Lots Contiguous to Pipestem Driveways

This provision sets forth the minimum setback requirements for pipestem lots and lots adjacent to pipestem driveways.

Sect. 2-417 - Reduction in Any Yard Requirement

This provision allows the Director of the Department of Public Works and Environmental Services (Director) to allow a reduction of up to 20% for any yard that has been

reduced in dimension below the minimum required in the event of condemnation or acquisition of a portion of a lot for public purposes.

ATTACHMENT B

Sect. 2-418 - Waiver of Yard Requirements in Selective Areas

This provision allows the Board in conjunction with special exception or rezoning approval, or the Director in conjunction with site plan approval, to waive the minimum yard requirements for any area where specific design guidelines have been established in the adopted comprehensive plan, such as in a Community Business Center and areas around transit facilities.

Sect. 2-419 - Reduction in Minimum Yard Requirements Based on Error in Building Location

This provision allows the Zoning Administrator to approve a reduction of up to 10% of the minimum yard requirements for certain existing buildings or partially constructed buildings that did not comply with the requirements when the building was constructed. Errors of greater than 10% require a special permit under the provisions of Sect. 8-914.

Sect. 2-420 - Yard Regulations for Lots Affected by Certain Dedications

The dedication for a service drive, bus turnout and/or bus shelter to the County or to the Virginia Department of Transportation does not affect the applicable minimum yard requirements. The minimum required yard is established from the lot line as it existed prior to dedications, except in no instance can a building be constructed closer than 15 feet from the nearest street line.

Sect. 8-913 - Provisions for Approval of Modifications to the Minimum Yard Requirements for Certain R-C Lots

This section allows the BZA to approve a Group 9 special permit to allow modifications to the minimum yard requirements for certain lots in the R-C District that were approved prior to 1982. Any such modification cannot result in a yard that is less than the minimum yard requirements of the zoning district which was applicable prior to July, 1982.

Sect. 8-914 - Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

This section allows the BZA to approve a Group 9 special permit for a reduction of the minimum yard requirements for certain existing buildings or buildings under construction that do not comply with the current minimum yard requirements. The noncompliance must have been done in good faith, or through no fault of the property owner, or was the result of an error in the location of a building subsequent to a Building Permit.

ATTACHMENT B

Sect. 8-916 - Provisions for Modifications to the Regulations on Permitted Extensions into Minimum Required Yards

This section allows the BZA to grant special permit approval for modifications of Sect. 2-412 that do not result in extensions that exceed the applicable extensions by more than 50%. As previously noted, Sect. 2-412 allows the extension of certain features, including decks and carports, into the minimum required yards.

Sect. 9-613 - Provisions for Waiving Minimum Lot Width, Minimum Yard and Privacy Yard Requirements for Single Family Attached Dwelling Units

This section allows the Board in conjunction with a rezoning or special exception to waive the minimum lot width, minimum yard and privacy yard requirements for single family attached dwelling units.

Sect. 9-615 - Provisions for Cluster Subdivision

In conjunction with a special exception approval of a cluster subdivision, the Board can modify the minimum lot size and/or yard requirements.

Sect. 9-619 - Provisions for Minor Modifications to a Nonconformity

This section allows the Board to grant special exception approval for structural alterations to any nonconforming building or building in which a nonconforming use is conducted when it is determined that the alteration is necessary as a result of condemnation or other acquisition by a government agency for public purposes.

Sect. 9-622 - Provisions for Modifications/Waivers/Increases and Uses in a Commercial Revitalization District

This section applies to the Commercial Revitalization Districts and allows the Board to grant special exception approval for, among other things, the waiver of the minimum yard requirements of the district in which located.

Sect. 9-633 - Reduction of Yard Requirements for the Reconstruction of Certain Single

Family Detached Dwellings that are Destroyed by Casualty

This new section was the subject of a Zoning Ordinance amendment that was adopted by the Board of Supervisors on November 15, 2004. The new provisions establish a Category 6 special exception that allows the Board to approve a reduction of yard requirements for the reconstruction of certain single family detached dwellings that are destroyed by casualty.

ATTACHMENT B

Sect. 10-104 - Location Regulations

These provisions set forth the minimum yard requirements for accessory structures and uses, such as sheds, detached garages, trellises, antennas, barns and other freestanding accessory structures.

Sect. 11-102 - General Provisions (for Off-Street Parking)

Par. 8 regulates the location of off-street parking spaces located on the ground and open to the sky relative to a front line. Except for single family dwellings, there must be a minimum distance of 10 feet between any off-street parking space and the front lot line.

Sect. 13-202 - Peripheral Parking Lot Landscaping

This provision requires a 4 foot wide landscaping area between off-street parking spaces and an abutting property and a 10 foot wide landscaping area between off-street parking spaces and a right-of-way when such parking spaces are located in a parking lot containing 20 or more parking spaces. The Board of Supervisors can waive or modify the peripheral parking lot landscaping requirements in conjunction with a rezoning or special exception application.

Sect. 13-302 - Transitional Screening Requirements

This section requires a landscaped buffer area of 25, 35 or 50 feet in width when locating a more intensive use adjacent to a less intensive use.

ATTACHMENT C

2003 Variance Application Data

The following data are from Variances Applications in conventional residential zoning districts on which the Board of Zoning Appeals acted upon during the 2003 calendar year. The data reflect the actual number of variances requested, not the number of applications. Decisions were made on 192 applications, each of which included one or more variance requests.

2003 Requested Yard Variances in Residential Districts					
Structure	Variance % Required	Approved	Partially Approved	Denied	Total
Accessory	Less Than 50%	7	0	1	8
	Greater Than 50%	11	6	5	22
	Total	18	6	6	30
Addition	Less Than 50%	100	3	8	111
	Greater Than 50%	17	2	9	28
	Total	117	5	17	139
Bay Window	Less Than 50%	2	1	0	3
	Greater Than 50%	0	0	0	0
	Total	2	1	0	3
Carport	Less Than 50%	0	0	0	0
	Greater Than 50%	3	0	1	4
	Total	3	0	1	4
Chimney	Less Than 50%	1	0	0	1
	Greater Than 50%	1	0	0	1
	Total	2	0	0	2
Deck	Less Than 50%	5	0	0	5
	Greater Than 50%	8	0	0	8
	Total	13	0	0	13
Dwelling	Less Than 50%	9	1	0	10
	Greater Than 50%	4	0	2	6
	Total	13	1	2	16
Eave	Less Than 50%	25	1	2	28
	Greater Than 50%	17	3	5	25
	Total	42	4	7	53
Roofed Deck	Less Than 50%	9	1	0	10
	Greater Than 50%	0	0	0	0
	Total	9	1	0	10
Stairs	Less Than 50%	3	0	0	3
	Greater Than 50%	1	0	0	1
	Total	4	0	0	4
Stoop	Less Than 50%	2	0	0	2
	Greater Than 50%	0	0	0	0
	Total	2	0	0	2

ATTACHMENT D**Currently Pending Variance Applications**

The following data are from currently pending variance applications in residential districts (does not include P district applications). The data reflect the actual number of variances requested, not the number of applications. There are currently 60 variance applications pending, each of which included one or more variance requests.

Type of Pending Variance Requests in Residential Districts	
Variance Type	Number
Minimum Required Yard	96
Fence Height	5
Lot Width	3
Accessory Structure in Front Yard	1
30% Minimum Required Rear Yard Coverage	1

Pending Requested Yard Variances in Residential Districts					
Structure	Less Than 50% Variance Required	Greater Than 50% Variance Required	Total	Number Eligible for Special Permit	% Eligible for Special Permit
Accessory	1	4	5	1	20%
Addition	26	8	34	25	74%
Carport	0	1	1	0	0%
Chimney	0	1	1	0	0%
Deck	0	3	3	0	0%
Dwelling	3	2	5	3	60%
Eave	26	10	36	26	72%
Roofed Deck	4	0	4	4	100%
Stairs	0	3	3	0	0%
Stoop	1	3	4	1	25%
Total	61	35	96	60	63%